

2009 DRAFTING REQUEST

Bill

Received: **01/28/2009**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Sheila Harsdorf (608) 266-7745**

By/Representing: **matt**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Harsdorf@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Tax credit for flexible fuel and fuel efficient hybrid motor vehicles

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------------|------------------------|----------------------|----------------|------------------------|-----------------------|-----------------|
| /? | jkreye 01/28/2009 | kfollett 02/18/2009 | | _____ | | | State |
| /1 | | | phenry 02/19/2009 | _____ | sbasford 02/19/2009 | cduerst 02/26/2009 | |

FE Sent For: **"1" @ intro. 3/26/09**

<END>

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| /? | jkreye 01/28/2009 | kfollett 02/18/2009 | | _____ | | | State |
| /1 | | | phenry 02/19/2009 | _____ | sbasford 02/19/2009 | | |

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: 01/28/2009

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Sheila Harsdorf (608) 266-7745

By/Representing: matt

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - credits

Extra Copies:

Submit via email: YES

Requester's email: Sen.Harsdorf@legis.wisconsin.gov

Carbon copy (CC:) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Tax credit for flexible fuel and fuel efficient hybrid motor vehicles

Instructions:

See attached

Drafting History:

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|--------------|----------------|-------------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | jkreye | 11/18 kjf 2/18 | 2/19 ph | 2/19 ph / jrf | | | |

FE Sent For:

<END>

Kreye, Joseph

From: Wuebke, Matt
Sent: Wednesday, January 28, 2009 3:34 PM
To: Kreye, Joseph
Subject: Redraft of 2007 SB 90 - Hybrid and flex fuel vehicle tax credit

Hi Joe,

Would you please provide us with a redraft of last session's SB 90, relating to tax credits for hybrid and flex fuel vehicles?

Thanks,
Matt

Matt Wuebke
Office of Senator Sheila Harsdorf
Tel: 800-862-1092 or 608-266-7745
matt.wuebke@legis.wisconsin.gov

2007 SENATE BILL 90

March 13, 2007 - Introduced by Senators HARSDORF, KREITLOW, OLSEN and SCHULTZ, cosponsored by Representatives HAHN, RHOADES, GRONEMUS, LOTHIAN, WOOD, CULLEN, MURSAU, MUSSER and GUNDERSON. Referred to Committee on Environment and Natural Resources.

- 1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (5k), 71.10 (4) (gn), 71.28 (5k), 71.30
3 (3) (dq), 71.47 (5k) and 71.49 (1) (dq) of the statutes; **relating to:** creating an
4 income and franchise tax credit for motor vehicles that use gasoline and ethanol
5 mixtures as fuel and for fuel efficient hybrid motor vehicles.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit that is equal to the amount of sales and use taxes a person paid in the taxable year on the purchase or lease of any new motor vehicle that is licensed for highway use and capable of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel the motor vehicle or is a hybrid motor vehicle with a federal Environmental Protection Agency rating that is greater than 40 miles per gallon. The amount of the credit that a person may claim may not exceed an amount equal to \$1,000 in the taxable year for each motor vehicle purchased in that year or \$1,000 for all taxable years combined with respect to the lease of any single motor vehicle.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 90

SECTION 1

1 SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5d), and
4 (5e), (5f), and (5h), and (5k) and not passed through by a partnership, limited liability
5 company, or tax-option corporation that has added that amount to the partnership's,
6 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

7 SECTION 2. 71.07 (5k) of the statutes is created to read:

8 (5n) 71.07 (5k) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definition.* In this
9 subsection, "claimant" means a person who files a claim under this subsection.

10 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
11 claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,
12 up to the amount of the taxes, an amount that is equal to the amount of the taxes
13 imposed under subch. III of ch. 77 that the claimant paid in the taxable year on the
14 purchase or lease of any new motor vehicle, licensed for highway use, that is capable
15 of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as
16 a fuel to propel the motor vehicle or that is a hybrid motor vehicle with a federal
17 environmental protection agency rating that is greater than 40 miles per gallon.

18 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
19 claim under this subsection in a taxable year is an amount equal to \$1,000,
20 multiplied by the number of motor vehicles described under par. (b) that the claimant
21 purchased or leased in the taxable year, except that the total amount that a claimant
22 may claim for all taxable years combined with respect to the lease of any single motor
23 vehicle may not exceed \$1,000.

24 2. Partnerships, limited liability companies, and tax-option corporations may
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

SENATE BILL 90

1 the credit are based on their payment of amounts described under par. (b). A
2 partnership, limited liability company, or tax-option corporation shall compute the
3 amount of credit that each of its partners, members, or shareholders may claim and
4 shall provide that information to each of them. Partners, members of limited liability
5 companies, and shareholders of tax-option corporations may claim the credit in
6 proportion to their ownership interests.

7 (d) *Administration*. Section 71.28 (4) (e) to (h), as it applies to the credit under
8 s. 71.28 (4), applies to the credit under this subsection.

9 SECTION 3. 71.10 (4) (gn) of the statutes is created to read:

10 71.10 (4) (gn) Flexible fuel motor vehicles credit under s. 71.07 (5k).

11 SECTION 4. 71.21 (4) of the statutes is amended to read:

12 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
13 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5h),
14 and (5k) and passed through to partners shall be added to the partnership's income.

15 SECTION 5. 71.26 (2) (a) of the statutes is amended to read:

16 71.26 (2) (a) *Corporations in general*. The "net income" of a corporation means
17 the gross income as computed under the Internal Revenue Code as modified under
18 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
19 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
20 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
21 under this paragraph at the time that the taxpayer first claimed the credit plus the
22 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
23 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (5k) and not passed
24 through by a partnership, limited liability company, or tax-option corporation that
25 has added that amount to the partnership's, limited liability company's, or

SENATE BILL 90

SECTION 5

1 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
2 of losses from the sale or other disposition of assets the gain from which would be
3 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
4 disposed of at a gain and minus deductions, as computed under the Internal Revenue
5 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
6 the difference between the federal basis and Wisconsin basis of any asset sold,
7 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
8 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

9 **SECTION 6.** 71.28 (5k) of the statutes is created to read:

10 (5n) 71.28 (5k) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definition.* In this
11 subsection, "claimant" means a person who files a claim under this subsection.

12 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
13 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
14 amount of the taxes, an amount that is equal to the amount of the taxes imposed
15 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
16 or lease of any new motor vehicle, licensed for highway use, that is capable of using
17 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to
18 propel the motor vehicle or that is a hybrid motor vehicle with a federal
19 environmental protection agency rating that is greater than 40 miles per gallon.

20 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
21 claim under this subsection in a taxable year is an amount equal to \$1,000,
22 multiplied by the number of motor vehicles described under par. (b) that the claimant
23 purchased or leased in the taxable year, except that the total amount that a claimant
24 may claim for all taxable years combined with respect to the lease of any single motor
25 vehicle may not exceed \$1,000.

SENATE BILL 90

1 2. Partnerships, limited liability companies, and tax-option corporations may
2 not claim the credit under this subsection, but the eligibility for, and the amount of,
3 the credit are based on their payment of amounts described under par. (b). A
4 partnership, limited liability company, or tax-option corporation shall compute the
5 amount of credit that each of its partners, members, or shareholders may claim and
6 shall provide that information to each of them. Partners, members of limited liability
7 companies, and shareholders of tax-option corporations may claim the credit in
8 proportion to their ownership interests.

9 (d) *Administration*. Subsection (4) (e) to (h), as it applies to the credit under
10 sub. (4), applies to the credit under this subsection.

11 **SECTION 7.** 71.30 (3) (dq) of the statutes is created to read:

12 71.30 (3) (dq) Flexible fuel motor vehicles credit under s. 71.28 (5k).

13 **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

14 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
15 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
16 (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (5k) and passed through to
17 shareholders.

18 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

19 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
20 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), and (5h), and
21 (5k) and not passed through by a partnership, limited liability company, or
22 tax-option corporation that has added that amount to the partnership's, limited
23 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)
24 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

25 **SECTION 10.** 71.47 (5k) of the statutes is created to read:

INSERT
5-29

SENATE BILL 90

SECTION 10

71.47 (5k) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definition.* In this subsection, "claimant" means a person who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided under this subsection, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the taxes, an amount that is equal to the amount of the taxes imposed under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase or lease of any new motor vehicle, licensed for highway use, that is capable of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel the motor vehicle or that is a hybrid motor vehicle with a federal environmental protection agency rating that is greater than 40 miles per gallon.

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is an amount equal to \$1,000, multiplied by the number of motor vehicles described under par. (b) that the claimant purchased or leased in the taxable year, except that the total amount that a claimant may claim for all taxable years combined with respect to the lease of any single motor vehicle may not exceed \$1,000.

2. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

SENATE BILL 90

(d) *Administration*. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

SECTION 11. 71.49 (1) (dq) of the statutes is created to read:

71.49 (1) (dq) Flexible fuel motor vehicles credit under s. 71.47 (5k) (5n)

SECTION 12. 77.92 (4) of the statutes is amended to read:

77.92 (4) "Net business income," with respect to a partnership, means taxable income as calculated under section 703 of the Internal Revenue Code; plus the items of income and gain under section 702 of the Internal Revenue Code, including taxable state and municipal bond interest and excluding nontaxable interest income or dividend income from federal government obligations; minus the items of loss and deduction under section 702 of the Internal Revenue Code, except items that are not deductible under s. 71.21; plus guaranteed payments to partners under section 707 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (5k); and plus or minus, as appropriate, transitional adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions from farming. "Net business income," with respect to a natural person, estate, or trust, means profit from a trade or business for federal income tax purposes and includes net income derived as an employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 13. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after

INSERT
7-20

SENATE BILL 90

SECTION 13

1 July 31 this act first applies to taxable years beginning on January 1 of the year
2 following the year in which this subsection takes effect.

3 (END)

D-Note

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1853/?ins

JK:.....

Insert 2 - 6

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e),
4 (5f), (5h), (5i), (5j), and (5k), and (5n) and not passed through by a partnership,
5 limited liability company, or tax-option corporation that has added that amount to
6 the partnership's, company's, or tax-option corporation's income under s. 71.21 (4)
7 or 71.34 (1k) (g).

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226.

Insert 4 - 8

8 **SECTION 2.** 71.21 (4) of the statutes is amended to read:

9 71.21 **(4)** Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
10 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),
11 (5h), (5i), (5j), and (5k), and (5n) and passed through to partners shall be added to
12 the partnership's income.

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96.

13 **SECTION 3.** 71.26 (2) (a) 4. of the statutes is amended to read:

14 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
15 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f),
16 (5g), (5h), (5i), (5j), and (5k), and (5n) and not passed through by a partnership,
17 limited liability company, or tax-option corporation that has added that amount to
18 the partnership's, limited liability company's, or tax-option corporation's income
19 under s. 71.21 (4) or 71.34 (1k) (g).

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20, 96, 97, 151, 226.

Insert 5 - 24

✓
1 **SECTION 4.** 71.34 (1k) (g) of the statutes is amended to read:

2 71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option
3 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
4 (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k), and (5n) and passed
5 through to shareholders.

✓
History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49, 74, 361, 479, 483; 2007 a. 20, 96, 226.

6 **SECTION 5.** 71.45 (2) (a) 10. of the statutes is amended to read:

7 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
8 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),
9 (5j), and (5k), and (5n) and not passed through by a partnership, limited liability
10 company, or tax-option corporation that has added that amount to the partnership's,
11 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
12 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and
13 (5).

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20, 96, 226.

Insert 7 - 20

✓
14 **SECTION 6.** 77.92 (4) of the statutes is amended to read:

15 77.92 **(4)** "Net business income," with respect to a partnership, means taxable
16 income as calculated under section 703 of the Internal Revenue Code; plus the items
17 of income and gain under section 702 of the Internal Revenue Code, including taxable
18 state and municipal bond interest and excluding nontaxable interest income or
19 dividend income from federal government obligations; minus the items of loss and
20 deduction under section 702 of the Internal Revenue Code, except items that are not
21 deductible under s. 71.21; plus guaranteed payments to partners under section 707
22 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),

1 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3s), (3n), (3p), (3t), (3w), (5e),
2 (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and (5n); and plus or minus, as appropriate,
3 transitional adjustments, depreciation differences, and basis differences under s.
4 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions
5 from farming. "Net business income," with respect to a natural person, estate, or
6 trust, means profit from a trade or business for federal income tax purposes and
7 includes net income derived as an employee as defined in section 3121 (d) (3) of the
8 Internal Revenue Code.

History: 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1853/7dn

JK: kjf

Date

Senator Harsdorf:

This draft is based on 2007 Senate Bill 90.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1853/1dn
JK:kjf:ph

February 18, 2009

Senator Harsdorf:

This draft is based on 2007 Senate Bill 90.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

Duerst, Christina

From: Woebke, Matt
Sent: Thursday, February 26, 2009 1:47 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-1853/1 Topic: Tax credit for flexible fuel and fuel efficient hybrid motor vehicles

Please Jacket LRB 09-1853/1 for the SENATE.